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Contest form  
2-2-06 pda

STATE OF NEBRASKA  
DEPARTMENT OF NATURAL RESOURCES

Water Appropriation A-\_\_\_\_\_

## CONTEST OF PRELIMINARY DETERMINATION OF NONUSE

**Instructions:** a. Each person contesting the Department of Natural Resources' preliminary determination of nonuse must fill out a separate Contest form unless the persons are owners in joint tenancy of the land. All joint tenants may sign the same Contest form.

b. The Contest form must be filled out completely.

c. If you are contesting only a portion of the preliminary determination then you must also sign the enclosed affirmation of cancellation of the uncontested portion of the preliminary determination.

d. If you have an interest in more than one appropriation that the Department has made a preliminary determination of nonuse on you must fill out a separate Contest form for each appropriation.

e. If you have aerial photographs of the land that is irrigated by the appropriation being contested please identify the various tracts on the photographs and include the photographs with the Contest form.

1. Give the name and address of the person submitting this Contest form.

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2. Give the legal description of all lands included under this appropriation that you own or for which you are the appropriator.

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3. If you admit that you haven't irrigated the land or a portion of the land described in paragraph 3 of the Department's Notice of Preliminary Determination of Nonuse for surface water appropriation A-\_\_\_\_\_ but claim you have legally sufficient cause for not using the water, check the appropriate paragraph(s) below and provide the information requested.

a. \_\_\_\_Federal, state, or local laws, rules, or regulations temporarily prevented or restricted use of the water. (If you checked this paragraph, list each tract of land by 40-acre subdivision, section, township and range that was affected and write down the specific laws, rules or regulations that prevented the use of the appropriation on that tract. Describe how the laws, rules or regulations affected your use of water on each tract.)

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b. \_\_\_\_Use of the water was unnecessary because of climatic conditions. (If you checked this paragraph, you must include with the Contest form all the National Weather Service data from weather stations near each tract of land that shows that there was sufficient rain during the last five years and irrigation was not necessary. On the lines below, list each tract of land by 40-acre subdivision, section, township and range and state how the National Weather Service data applies to each tract of land not irrigated. Also describe the cropping pattern for each tract of land for the last five years.)

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c. \_\_\_\_Circumstances were such that a prudent person, following the principles of good husbandry, would not have been expected to use the water. (If you checked this paragraph, on the lines below list each tract of land by 40 acre subdivision, section, township and range and describe the cropping pattern for the last five years for each tract of land that wasn't irrigated. State the circumstances that made irrigation unnecessary for each tract of land.)

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d. \_\_\_\_The works, diversions, or other facilities essential to use the water were destroyed by a cause not within the control of the owner of the appropriation and good faith efforts to repair or replace the works, diversions, or facilities have been and are being made. (If you checked this paragraph, on the lines below list each tract of land by 40-acre subdivision, section, township and range and describe what was destroyed and how. Explain what efforts have been made to repair or replace the destroyed facilities and when the efforts were made.)

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e. \_\_\_\_The owner of the appropriation was in active involuntary service in the armed forces of the United States or was in active voluntary service during a time of crisis. (If you checked this paragraph, list each tract of land by 40-acre subdivision, section, township and range that you claim is covered by the military exemption and enclose copies of the military orders with this Contest form.)

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f. \_\_\_\_Legal proceedings prevented or restricted use of the water. (If you checked this paragraph, list each tract by 40-acre subdivision, section, township and range that is affected by a legal proceeding and state the name of the case, the court involved in the proceedings, the case number of the legal proceedings and the names of the attorneys involved on the lines below. Provide copies of documents verifying when the proceedings began and ended. If the proceedings are ongoing state when they are expected to conclude.)

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g. \_\_\_\_The land subject to the appropriation is/was under an acreage reserve program or production quota or is/was otherwise withdrawn from use as required for participation in any federal or state program. (If you checked this paragraph, on the lines below state the name of the government program the land was in and when the program ended or will end. Enclose copies of the program agreements or contracts with this Contest form. If the agreements or contracts do not contain a description of the land included in the program you must include an aerial photograph or map showing which tracts of land were included in the program.)

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h. \_\_\_\_The available water supply was used, but on only part of the land under the appropriation, because of an inadequate water supply. (If you checked this paragraph, on the lines below state how much water was used, when it was used, why the supply was inadequate and list each tract of land by 40-acre subdivision, section, township and range that water was applied to and each tract that did not receive water. Enclose any relevant information you have with this Contest form.)

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i. \_\_\_\_There was an inadequate water supply. (If you checked this paragraph, on the lines below state why the water supply was inadequate. Enclose any relevant information you have concerning the last use of the water including the date of last use, the amount used, the 40-acre subdivision, section, township and range of each tract of land that was irrigated, and the reason for the inadequacy of the water supply. Include any relevant information you may have with this Contest form.)

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4.If you have irrigated the land within the last five years, on the lines below, list each tract of land by 40-acre subdivision, section, township and range that was irrigated, give the dates each tract was irrigated, and how much water was applied. Give the names and addresses of any person who witnessed the irrigation. Describe any other evidence of water use you may have.

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5. If you have reasons for not using the water authorized by appropriation A-\_\_\_\_ other than those reasons specified in Paragraph 3 or have any information relevant to this contest please list them below.

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**The undersigned hereby swears that the information provided above, including all documents enclosed with the Contest form are true and accurate to the best of my knowledge and belief.**

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\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

STATE OF NEBRASKA )

)

COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me \_\_\_\_\_, a notary public,  
Month, Day, Year Notary's Name

personally came \_\_\_\_\_ as owner of the land described herein, and  
being duly sworn, affirms the above as true and accurate.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at  
\_\_\_\_\_, \_\_\_\_\_ County, Nebraska, this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

### AFFIRMATION OF CANCELLATION

I hereby affirm that I am not contesting the Department of Natural Resources' preliminary determination that the \_\_\_\_\_Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_, in \_\_\_\_\_ County has not been irrigated in the last \_\_\_\_\_ years with water authorized by appropriation A-\_\_\_\_\_. I agree that in accordance with Neb. Rev. Stat. §46-229.02(4) (Reissue 2004) the Department may cancel my right to irrigate such lands and that portion of water appropriation A-\_\_\_\_\_ attached to such lands.

Name

Date \_\_\_\_\_

STATE OF NEBRASKA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me \_\_\_\_\_, a notary public,  
Month, Day, Year Notary's Name  
 personally came \_\_\_\_\_ as owner of the land described herein, and  
 being duly sworn, affirms the above as true and accurate.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_, \_\_\_\_\_ County, Nebraska, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Notary Public